

ASSEMBLY BILL

No. 2006

Introduced by Assembly Member La Malfa

February 9, 2006

An act to add Section 305.2 to the Welfare and Institutions Code, relating to dependent children.

LEGISLATIVE COUNSEL'S DIGEST

AB 2006, as introduced, La Malfa. Dependent children: arrest of parent or guardian.

Existing law authorizes any peace officer, without a warrant, to take into temporary custody a minor in specified circumstances, including, but not limited to, when the officer has reasonable cause for believing the minor qualifies as a dependent child of the court and the minor has an immediate need for medical care, or other conditions apply.

This bill would authorize a peace officer, without a warrant, to take into temporary custody any minor in the immediate care and custody of a parent or guardian who is arrested under specified circumstances, including, if the officer has reasonable cause for believing the minor is in immediate danger of physical or sexual abuse, or the physical environment or the fact that the minor will be left unattended poses an immediate threat to the minor's health or safety.

The bill would require the peace officer to first attempt to contact any other parent or guardian with legal custody of the child to determine if that parent or guardian is able to assume physical custody of the child and, if not, to notify a social worker in the county welfare department to assume custody of the child. The bill would require the booking officer, at the time of booking the parent or guardian, to ask the parent or guardian for a list of able and willing individuals that the parent or guardian approves of for temporary placement of the minor.

The list would be transmitted to the county welfare department for investigation as to the suitability of the prospective placements, and the county welfare department would be required to keep a file of all screened persons for use in the event of a subsequent arrest of the parent or guardian. By imposing new duties on local law enforcement and social services, the bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 305.2 is added to the Welfare and
- 2 Institutions Code, to read:
- 3 305.2. (a) Any peace officer may, without a warrant, take
- 4 into temporary custody any minor in the immediate care and
- 5 custody of a parent or guardian who is arrested, if the officer has
- 6 reasonable cause for believing any of the following:
- 7 (1) The minor is a person described in Section 300.
- 8 (2) The minor has an immediate need for medical care.
- 9 (3) The minor is in immediate danger of physical or sexual
- 10 abuse, or the physical environment or the fact that the minor will
- 11 be left unattended poses an immediate threat to the minor's
- 12 health or safety.
- 13 (b) In cases in which the child would be left unattended due to
- 14 the parent's or guardian's arrest, the peace officer shall first
- 15 attempt to contact any other parent or guardian with legal
- 16 custody of the child to determine if that parent or guardian is able
- 17 to assume physical custody of the child. If the parent or guardian
- 18 cannot be contacted, the peace officer shall notify a social worker
- 19 in the county welfare department to assume custody of the child.

1 (c) At the time of booking of the parent or guardian, the
2 booking officer shall ask the parent or guardian for a list of able
3 and willing individuals that the parent or guardian approves of
4 for temporary placement of the minor. The list shall be
5 transmitted to the county welfare department for investigation as
6 to the suitability of the prospective placements, including any
7 necessary background checks. The county welfare department
8 shall keep a file of all screened persons for use in the event of a
9 subsequent arrest of the parent or guardian.

10 SEC. 2. If the Commission on State Mandates determines that
11 this act contains costs mandated by the state, reimbursement to
12 local agencies and school districts for those costs shall be made
13 pursuant to Part 7 (commencing with Section 17500) of Division
14 4 of Title 2 of the Government Code.